

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2008-196-E - ORDER NO. 2008-752  
NOVEMBER 6, 2008

IN RE:	Combined Application of South Carolina	)	ORDER GRANTING
	Electric & Gas Company for a Certificate of	)	MOTION FOR
	Environmental Compatibility and Public	)	CONFIDENTIAL
	Convenience and Necessity and for a Base	)	TREATMENT
	Load Review Order for the Construction and	)	
	Operation of a Nuclear Facility in	)	
	Jenkinsville, South Carolina	)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) on the Motion of the Office of Regulatory Staff (“ORS”) for confidential treatment of certain material in this docket.

As set forth by Hearing Officer Directive of September 2, 2008, and pursuant to 26 S. C. Code Ann. Regs. 103-845(Supp. 2007), the ORS on October 17, 2008 filed the direct testimonies and exhibits of eight witnesses. Concurrent with the filing of the testimonies, ORS moved for this Commission to hold that certain portions of the testimonies and exhibits of ORS witnesses Malini R. Gandhi, George W. Evans, and Mark W. Crisp be held as proprietary information and be protected from public disclosure. Specifically, ORS requests confidential treatment of Attachment A to Audit Exhibit MG-1 of witness Gandhi, Exhibit GWE-4 of witness Evans, and testimony pages 88 and 89 and Exhibits MWC-3 and MWC-4 of witness Crisp.

According to ORS, the exhibits and pages for which it seeks confidential treatment contain numbers directly linked to South Carolina Electric & Gas Company’s

(“SCE&G” or the “Company”) Engineering, Procurement and Construction Agreement (“EPC Contract”). On September 16, 2008, SCE&G filed the Company’s direct testimonies and exhibits in this docket and requested that confidential treatment be given to certain material filed in the testimonies and exhibits of the witnesses. The EPC Contract was one of the documents for which SCE&G requested confidentiality. By Order No. 2008-696, the Commission granted SCE&G’s request and found the EPC Contract to contain proprietary and commercially sensitive information that should be withheld from public disclosure. The ruling in Order No. 2008-696 was consistent with the Commission’s prior ruling in this docket finding, among other things, that the pricing and pricing terms of the EPC Contract to be confidential and barring disclosure of this information. *See* Commission Order No. 2008-467 issued July 8, 2008. In keeping with the Commission’s Order No. 2008-696, ORS requests, as delineated in its motion, that the named exhibits and pages to ORS witnesses’ testimonies be declared confidential.

In accordance with Commission Order No. 2005-226, “Order Requiring Designation of Confidential Materials”, issued May 6, 2005, ORS sets forth in its request the material for which the Company seeks confidential treatment and files such information in a separate, sealed package clearly marked “confidential.”

We have examined this matter, and grant the request for confidential treatment of the stated exhibits and pages to the testimony of witnesses Gandhi, Evans, and Crisp. We find that these exhibits and pages contain numbers directly linked to SCE&G’s EPC Contract already declared to be protected and confidential by this Commission.

The Freedom of Information Act (FOIA) grants a public body like this Commission the discretion to withhold exempted materials from public disclosure. Campbell v. Marion County Hospital, 354 S.C. 274, 580 S.E. 2d 163, 166 (Ct. App. 2003). “Trade secrets” are one of the materials exempt from public disclosure under FOIA. See S.C. Code Ann. § 30-4-40 (a) (1). When the entire “trade secret” definition is read, it is evident “that the legislature intended the ‘trade secret’ exemption to protect an organization’s studies or preparations in its quest to produce or sell its product or service...” Campbell v. Marion County Hospital, 580 S.E. 2d at 169. The information under consideration also falls within the definition of a “trade secret” pursuant to the South Carolina Trade Secrets Act. See S.C. Code Ann. § 39-8-20 (5). The data referenced herein is clearly a compilation of information that has actual or potential commercial value.

The request of ORS for a declaration of confidentiality is granted. The specified pages and exhibits to the testimonies and exhibits of ORS witnesses Gandhi, Evans, and Crisp shall be deemed confidential, and the disclosure of the stated information shall be barred, subject to South Carolina statutory, regulatory, and case law.

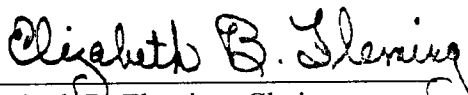
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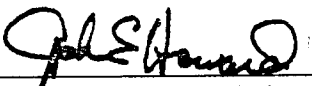
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This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

  
Elizabeth B. Fleming, Chairman

ATTEST:

  
John E. Howard, Vice Chairman

(SEAL)